



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NAVAL AIR WARFARE CENTER AIRCRAFT
DIVISION OFFICE OF COUNSEL BLDG 435
SUITE A
47076 LILJENCRANTZ ROAD UNIT 7
PATUXENT RIVER MD 20670

COPY MAILED

MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Thoman, et al.	:	
Application No. 10/056,812	:	ON PETITION
Filed: January 24, 2002	:	
Attorney Docket No. NC 73962	:	
For: LIGHTWEIGHT THERMAL HEAT	:	
TRANSFER APPARATUS	:	

This is a decision on the petition under 37 CFR 1.181, filed May 2, 2006 (certificate of mailing date May 1, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the February 9, 2004 non-final Office action which set an extendable one month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on March 10, 2004. No Notice of Abandonment has been mailed.

Petitioners allege that the February 9, 2004 non-final Office action was not received. Petitioners explain the mail processing procedure in use at the correspondence address of record and describe the contents of the case file for the above-identified application. Petitioners state that the February 9, 2004 non-final Office action is not present in the case file for the above-identified application.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

A review of the record indicates no irregularity in the mailing of the February 9, 2004 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough search of applicable docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioners have not provided adequate evidence of non-receipt. The petition is dismissed.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).